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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

K.H.,

Plaintiff,

STIPULATION

CV 12-1680 (ARR)(MDG)

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION;
NEW YORK CITY BOARD OF EDUCATION, DENNIS
WALCOTT, in his official capacity as Chancellor of the
New York City School District,

Defendants.

WHEREAS, Plaintiff K.H. filed this action on or about April 5, 2012, and filed an Amended Complaint on or about May 9, 2012 pursuant to the Individuals with Disabilities Education Improvement Act ("IDEIA"), 42 U.S.C. § 1983, § 504 of the Rehabilitation Act, and New York State Education Law;

WHEREAS, the parties wish to engage in good-faith settlement discussions; and

WHEREAS, as part of those negotiations, Plaintiff K.H. has requested that Defendants New York City Department of Education ("DOE"), New York City Board of Education, and DOE Chancellor Dennis Walcott issue him a New York City Metropolitan Transportation Authority MetroCard ("MetroCard") to facilitate his attendance at certain educational programs in the upcoming months;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the parties, as follows:

1. Defendants shall issue to Plaintiff Unlimited Ride MetroCards sufficient to cover a ninety-day period. Defendants shall purchase the first MetroCard and send it to

Plaintiff promptly after the so-ordering of this Stipulation, and the ninety-day period shall be measured from the date that the first MetroCard is purchased.

2. In stipulating to and complying with paragraph "1" above, Defendants do not and will not waive any right to argue that they do not have an obligation to issue a MetroCard of any kind to Plaintiff, except for a MetroCard in an amount sufficient to permit Plaintiff to attend his program at Lindamood-Bell to the extent required by the decision of the Impartial Hearing Officer in Case No. 127607, dated August 17, 2011.

3. In stipulating to and accepting the MetroCards discussed in paragraph "1" above, Plaintiff does not and will not waive any rights that he would otherwise possess.

4. The parties agree that the price of the MetroCards discussed in paragraph "1" above shall be deducted from any settlement amount to which the parties in this action may agree.

5. The parties further agree that this Stipulation shall not be used to argue that any party is a "prevailing party" under any statutory provision concerning attorneys' fees, disbursements, and/or costs, or otherwise entitles any party to attorneys' fees, disbursements, and/or costs in this action.

6. Nothing contained herein shall be deemed to be an admission by Defendants that they have in any manner or way violated Plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules, or regulations of the United States, the State of New York, the City of New York, or the DOE, or any other rules, regulations, or bylaws of any department or subdivision of the City of New York or the DOE.

7. This Stipulation shall not be admissible in, nor is it related to, any other action, or any settlement negotiation therein, except as necessary to enforce its terms.

8. Nothing contained herein shall be deemed to constitute a policy or practice, or evidence of a policy or practice, of the City of New York or of any Defendant.

9. This Stipulation contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation regarding the subject matter of this Stipulation shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
June 21, 2012

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SQ ORDERED:
s/ARR


U.S.D.J.